

Jan



PATENT

Attorney Docket No. 05725.0756-01000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Isabelle ROLLAT et al.) Group Art Unit: 1614
)
Application No.: 10/693,966) Examiner: Zohreh Vakili
)
Filed: October 28, 2003)
) Confirmation No.: 3769
For: RESHAPABLE HAIR STYLING)
COMPOSITION COMPRISING)
ACRYLIC COPOLYMERS)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO RESTRICTION REQUIREMENT AND ELECTION OF SPECIES

In a restriction requirement dated April 10, 2007, the Examiner required restriction under 35 U.S.C. § 121 between Group I, claims 1-14 drawn to a composition, and Group II, claims 15-16 drawn to a method of cosmetically treating hair. Applicant elects, with traverse, to prosecute Group I, claims 1-14 drawn to a composition.

Applicant traverses the restriction/election requirement on the grounds that a proper search and examination of the subject matter covered by all of pending claims 1-16 would not be unduly burdensome on the Examiner as the proper searches significantly, if not entirely, overlap. Specifically, the subject matter of all the presently pending claims would require the Examiner to search for reshapable hair styling compositions comprising at least one acrylic copolymer, as defined by the claims.

Thus, the search and examination of Group II should necessarily include a search of Group I claims.

In view of the foregoing remarks, Applicant respectfully submits that the Examiner has not shown that the search and examination of all the subject matter of pending claims 1-16 would constitute an undue burden. Thus, in order to avoid unnecessary delay and duplicative examination by the Patent Office, Applicant respectfully requests that the restriction requirement between Groups I and II be withdrawn.

The Examiner further alleges that the present application contains claims directed to more than one species of the generic invention. Specifically, the Examiner asserts that claims 1-2, 7-9 and 12-14 are generic for Group I, and claims 15-16 are generic for Group II, and thus requires election of an acrylic copolymer, a specific species of cosmetic vehicle and a specific species of additional polymer. Office Action at page 4.

While Applicant disagrees with the election of species requirement, to be fully responsive, Applicant elects, with traverse, an acrylic copolymer comprising 2-ethylhexyl acrylate monomers, isobornyl acrylate monomers and methacrylic acid monomers. As a vehicle, Applicant elects water and as a specific species of additional polymer, Applicant elects a polymer formed from 2-ethylhexyl acrylate monomers, isobornyl acrylate monomers and acrylic acid monomers. The elected claims encompassed by the elected species include claims 1-14.

Applicant respectfully requests that the full scope of the claimed invention continue to be examined in this application without restriction or election requirement. If

the Examiner chooses to maintain the election requirement, Applicant respectfully requests the Examiner, if the elected species is found allowable, to continue to examine the full scope of the subject matter to the extent necessary to determine the patentability thereof, that is, extending the search to a reasonable number of the non-elected species according to M.P.E.P. § 803.02 and 35 U.S.C. § 121.

In view of the foregoing remarks, Applicant respectfully submits that both the restriction and the election of species requirement are in error and request that the requirements be withdrawn.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: May 10, 2007

By: *Jennifer Leach*
Jennifer R. Leach
Reg. No. 54,257